

## **REMARKS**

### **A. Amendment to the Specification**

The specification has been amended to include a description of Figure 1 E. As shown in this Figure and discussed in the original disclosure on page 4, lines 6-9; and page 8, lines 3-7, loose fibers are sprayed onto a surface of garment form 10 which includes garment 18. No new matter has been introduced into the application as a result of the above amendment.

### **B. Amendment to the Claims**

Claim 29 has been amended for clarification purposes. Accordingly, no new matter has been introduced into the application as a result of the present amendment.

### **C. The Office Action**

In the Office Action mailed January 24, 2007, the Examiner rejected claims 35, 36, 38-40, 63, and 64 under 35 U.S.C. §112, first paragraph. The Examiner further rejected claims 29-34, 51, 54, 58, 59, 61, 62, 66, and 73 under 35 U.S.C. §102(b) as being anticipated by *Rodriguez* (U.S. Pat. No. 5,411,493). Claims 29, 33, 47, 48, 59, 60, 66, 67, and 70 were rejected under 35 U.S.C. §102(e) as being anticipated by *Shlenker et al.* (U.S. Pat. No. 5,965,276). Further, claims 29, 30, 32-36, 38-40, 42, 44-47, 50, 57, 59, 61, 63-66, 68-69, and 72 were rejected under 35 U.S.C. §102(e) as being anticipated by *Lasko et al.* (U.S. Pat. No. 6,277,104). The Examiner further rejected claims 48 and 70 under 35 U.S.C. §103(a) as being unpatentable over *Lasko* in view of *Wiegner* (U.S. Pat. No. 4,662,876). Finally, the Examiner rejected claims 49 and 71 under 35 U.S.C.

§103(a) as being unpatentable over *Lasko* in view of *Tanzer et al.* (U.S. Pat. No. 5,342,333). The Examiner also objected to the previous amendment and submitted that the phrase "loose fibers" was new matter. For the reasons given below, Applicant respectfully submits that the term "loose fibers" is supported by the application and that the references fail to disclose, teach, or even suggest the presently claimed invention, and request that the rejection of the claims be withdrawn. Reconsideration of this application, as amended, is respectfully requested.

**1. Rejection under 35 U.S.C. §112, first paragraph**

The Examiner rejected claims 35, 36, 38-40, 63, and 64 as being non-enabling because the specification allegedly does not provide enablement for the inner surface of the liquid impermeable material of the garment body having first and second portions with the first portion having perforations. Applicant respectfully disagrees because by definition, a perforation will pass through both an inner and outer surface of a single material. The present application discloses a partly perforated product made of a single material to allow for passage of perspiration. See page 5, lines 5 and 6. When the garment is perforated, the inner and outer surface are both perforated at the same time. The rejection is therefore improper and should be withdrawn.

**2. Rejection under 35 U.S.C. § 102(b)**

According to M.P.E.P. §2131, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

With respect to independent claim 29, the Examiner submits that "Rodriguez discloses an integrally formed garment body 10 of stretchable liquid impermeable material (col. 6, lines 61-68 and col. 7, lines 11-14), the liquid impermeable material having different areas of thickness, in areas where the material overlaps to form pockets and seams (Figures 4-6); and loose fibers directly affixed to at least part of the inner surface of the integrally formed garment body (col. 6, lines 31-49)." Applicant respectfully disagrees.

*Rodriguez* discloses a vest used to cool or warm the body in order to control body temperature. The vest is made of an absorbent material, however there is no disclosure of the vest having different thicknesses made within the *same layer*. The pockets and other overlapping straps disclosed in *Rodriguez* are not positioned within the same layer, and thus do not anticipate claim 29 as amended which recites, "the garment body having different thicknesses of the liquid impermeable material on desired areas of the garment body." Consequently, each and every element of the claim is not disclosed in the reference, and therefore the rejection is improper and should be withdrawn.

Furthermore, the specification as amended clarifies that loose fibers (small cut fibers used for flocking) are blown onto the garment form and attach to the exterior surface of the garment to create a comfortable, non-sticky surface. *Rodriguez's* disclosure of fibers, as part of the absorbent layer, does not include loose fibers as described in the present application. Thus, for this further reason, the rejection is improper and should be withdrawn.

### 3. Rejection under 35 U.S.C. §102(e)

The Examiner further rejected independent claim 29 as being anticipated by *Shlenker*. Applicant respectfully traverses this rejection. *Shlenker* discloses a method to produce a polymer membrane including discrete layers. The “single and multiple layer membranes such as gloves and condoms include one or more deactivating barrier layers and/or indicating layers...A membrane may include one or more permeable or semipermeable layers to disperse contained substances...” See *Shlenker*, Abstract, lines 1-4. The resulting products are made of at least 2 layers of different materials, including fibers “trapped” between the layers. *Shlenker's* disclosure of porous material cannot be regarded as “different thicknesses,” as recited in independent claim 29, because a hole in the material is an area with no material at all, as was agreed during the interview conducted on January 25, 2007. Therefore, each and every limitation of the claim is not disclosed in the reference, and thus the rejection is improper and should be withdrawn.

Furthermore, *Shlenker* does not disclose loose fibers affixed to at least a part of the inner side of the garment to achieve a non-sticky surface, as disclosed in the present application and claims. Rather, *Shlenker* merely discloses fibers as part of a long list of materials being contained between the layers. See col. 7, lines 26-35. Moreover, unlike the present application, the fibers disclosed in *Shlenker* do not coat the product and are not in direct contact with the wearer's body. Thus, for this further reason, the rejection is improper and should be withdrawn.

The Examiner also rejected claim 29 as being anticipated by *Lasko*. Applicant respectfully disagrees with this rejection. *Lasko* discloses air permeable, liquid impermeable barrier structures and products made therefrom. *Lasko* relates to absorptive

articles such as pads of different designs. Such products are known in the art as being made of different layers. The layer in contact with the body is a permeable layer, and the outer layer is mainly an impermeable layer. Those layers are bonded together at their edges to create the article. The absorbent core is enclosed between those layers. *Lasko* discloses a method of improving the outer layer. The Examiner submits that “the liquid impermeable material has pores, which creates different thicknesses on desired areas of the body.” As mentioned above, during the interview conducted on January 25, 2007, it was agreed that pores are areas with no material at all, and hence cannot be considered a different thickness of material. As such, each and every element of the claim is not disclosed in the reference, and therefore the rejection is improper and should be withdrawn.

Moreover, *Lasko* fails to disclose loose fibers as recited in independent claim 29. The Examiner submits that element 78 in *Lasko* shows fibers. However, in column 12, lines 53-54 of the specification, element 78 is referred to as "sintered flattened particles 78 of barrier structure 76." *Lasko* further discloses the absorbent core optionally containing fibers. See col. 12, lines 55-58. It is well known in the art to use different fibers to create absorbent cores. On the contrary, the present application discloses loose fibers directly affixed to the garment. There is no such disclosure or suggestion of this type of loose fibers in *Lasko*. Therefore for this further reason, the rejection is improper and should be withdrawn.

The Examiner further submits that *Lasko* describes fibers attached to inner and outer surfaces of the barrier structure. However, col. 7, lines 57-58 of *Lasko* recite “particles may be fused to both opposing sides....” and col. 7, lines 40-56 of *Lasko*

describe the suitable material to create the particles. All of the cited materials are “poly” materials and the particles are melted into the barrier layer. Claims 29, 42 and 65 of the present application disclose a coating of fibers to create a non-sticky surface. The loose fibers are *not* melted into the layer. On the contrary, the loose fibers of the present application are long enough to extend beyond the barrier layer (for example, a magnifying glass will show a ‘grass like’ pattern.). See the specification at page 8, lines 7-9. Thus, for this further reason, the rejection is improper and should be withdrawn.

#### **4. Rejections under 35 U.S.C. §103(a)**

The Examiner further rejected claims 48 and 70 under 35 U.S.C. §103(a) as being unpatentable over *Lasko* in view of *Wiegner*, and claims 49 and 71 under 35 U.S.C. §103(a) as being unpatentable over *Lasko* in view of *Tanzer*. Neither *Wiegner* nor *Tanzer* remedy the deficiencies of *Rodriguez*, *Shlenker*, or *Lasko* discussed above. Thus, for this reason, the rejections are improper and should be withdrawn.

#### **D. Conclusion**

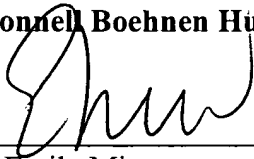
In view of the above amendments and discussion, the Applicant submits that the application is in condition for an allowance. A Notice to this effect is respectfully requested. Prompt consideration and entry of this response is respectfully requested. If

the Examiner believes that a telephone conference would expedite the prosecution of this application, the Examiner is invited to call Applicant's undersigned representative.

Respectfully submitted,

**McDonnell Boehnen Hulbert & Berghoff LLP**

Dated: Feb. 13, 2007

By:   
Emily Miao  
Reg. No. 35,285

McDonnell Boehnen  
Hulbert & Berghoff LLP  
300 South Wacker Drive  
Chicago, IL 60606  
Telephone: 312-913-0001  
Facsimile: 312-913-0002